



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable H. W. Allen
District Attorney
Hamilton, Texas

Hamilton Co.

Dear Sir:

Opinion No. 0-2411
Re: Meaning of term "travel-
ing dentist."

In your letter of May 23, 1940, you request our opinion in response to the following question:

"May a dentist with a fixed residence and practice in one County answer professional calls to adjoining Counties which are communicated to him without being liable for a tax as a 'traveling dentist' within the purview of Art. 7047, sub. (3) RCS 1925?"

Article 7047 (3), Revised Civil Statutes, reads:

"3. Itinerant physicians, etc. -- From every itinerant physician, surgeon, oculist or medical or other specialist of any kind, traveling from place to place in the practice of his profession, except dentists practicing from place to place in the county of their residence, an annual tax of fifty dollars. Acts 1907, p. 57."

Webster's New International Dictionary defines the word "itinerant" as "one who travels from place to place." Bearing that in mind, we think there is no substantial difference in the present statute and the Act involved in the case of *Hairston vs. State*, 37 S. W. 858, other than the exception as to "dentists practicing from place to place in the county of their residence" now embodied in said Article 7047 (3). From the opinion of the Court of Criminal Appeals

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in that case, we quote:

"* * * In regard to occupation taxes, article 5049 of the Revised Statutes of 1895 provides: 'From every physician, surgeon, oculist, or medical or other specialist of any kind, travelling from place to place in the practice of his profession, an annual tax of fifty dollars, in each county where he may practice his profession,' shall be collected. * * * The testimony shows, in so far as it relates to this phase of the case, that appellant lived at Navasota, in Grimes county, and that upon one occasion a couple of gentlemen from Bryan, in Brazos county (an adjoining county to Grimes), went to Navasota, and sought the services of the appellant as a medical specialist. He being absent from Navasota, a request was left that he should attend the call of these gentlemen at Bryan upon his return. This request he complied with, and made two appointments each month to attend cases in his line of practice at Bryan. It may be conceded that twice during the month appellant visited Bryan as a medical specialist. * * * We do not understand this expression, 'travelling from place to place,' to refer to physicians, surgeons, medical or other specialists who are enumerated in the statute, or to relate to those who have an office or place of business, and attend calls in their profession at other and different places in other and different counties than the place of their location. As we understand this term, 'travelling from place to place,' it refers to those parties enumerated in the statute who go from place to place traveling over the state, pursuing their occupation, calling, or profession in that manner. We would not be understood as holding that a person may not have an office or place of residence, in which he pursues his occupation, at some particular point in the state, and not be amenable to the law as a traveler, -- that is,

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one going from place to place pursuing his occupation; but in such case, to be a traveler, pursuing his occupation in the state, he must travel from place to place, pursuing his vocation in an itinerant method. The case before us is not within that category. Here the physician or specialist had two places of business. Part of his time he spent at one, and the other part of his time at the other, place. This does not carry with it the idea of itineracy, or traveling from place to place, as we understand the meaning of this term, within the purview of the law. * * *

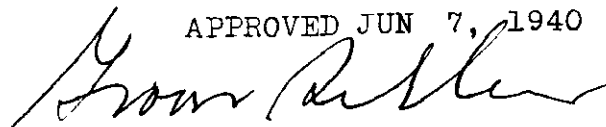
Without the exception in the statute, it is quite clear that the dentist to whom you refer could not be classed as an itinerant subject to the tax. We think the exception was meant to exempt certain persons from the tax, that is, itinerant dentists confining their activities to the counties of their respective residences. It was not intended to reach out and bring within the statute those who would not be affected by the statute otherwise.

As we understand the facts from your letter, the dentist in question is not practicing his profession outside the county of his residence except in response to specific calls. In our opinion he is not an itinerant dentist subject to the tax and we answer your question in the affirmative.

Yours very truly

ATTORNEY GENERAL OF TEXAS

APPROVED JUN 7, 1940



FIRST ASSISTANT
ATTORNEY GENERAL

By 

Glenn R. Lewis
Assistant

GRL:RS

